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**TRANSMITTAL LETTER
(General - Patent Pending)**

Docket No.
17397

In Re Application Of: **Josef Dommer, et al.**

| Application No. | Filing Date | Examiner | Customer No. | Group Art Unit | Confirmation No. |
|-----------------|----------------|-----------------------|--------------|----------------|------------------|
| 10/802,148 | March 17, 2004 | Robert L. Deberadinis | 23389 | 2836 | 3950 |

Title: **MICROWAVE GENERATOR**

COMMISSIONER FOR PATENTS:

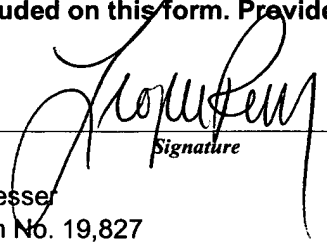
Transmitted herewith is:

SUPPLEMENTAL RESPONSE TO OFFICE ACTION INCLUDING LETTER SUBMITTING TERMINAL DISCLAIMER (IN DUPLICATE); TERMINAL DISCLAIMER; AND A CHECK IN THE AMOUNT OF \$130.00 FOR THE TERMINAL DISCLAIMER FEE.

in the above identified application.

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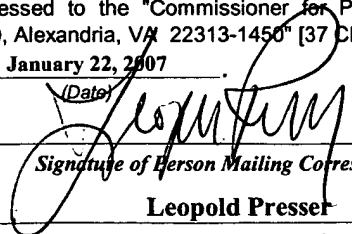
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Signature

Dated: **January 22, 2007**

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| | |
|---|--|
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on January 22, 2007 (Date) | |
|  Signature of Person Mailing Correspondence | |
| Leopold Presser Typed or Printed Name of Person Mailing Correspondence | |

cc: **LP: jy**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Josef Dommer, et al. **Examiner:** Robert L. Deberadinis
Serial No.: 10/802,148 **Art Unit:** 2836
Filed: March 17, 2005 **Docket:** 17397
For: MICROWAVE GENERATOR **Dated:** January 22, 2007
Confirmation No.: 3950

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL RESPONSE TO OFFICE ACTION

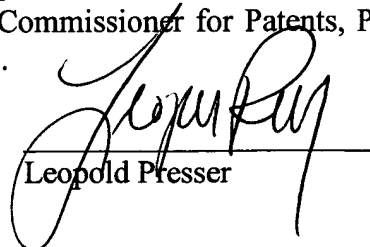
Sir:

In supplemental response to the Office Action dated October 11, 2006, and supplementing the Amendment dated December 19, 2006, upon further consideration of the art, as cited by the Examiner, applicants herewith submit a Terminal Disclaimer with regard to commonly assigned Staines, et al., U.S. Patent No. 6,822,394 B2, dated November 23, 2004, as mentioned by the Examiner in the Office Action.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 22, 2007.

Dated: January 22, 2007

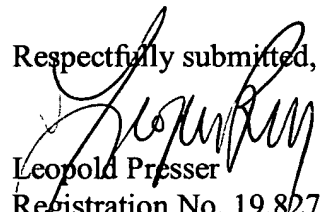

Leopold Presser

Concerning the foregoing, the primary reference cited by the Examiner, which is applicants commonly assigned U.S. Patent No. 6,822,394 B2, applicant notes the Examiner's comments that a Terminal Disclaimer pursuant to 37 C.F.R. §3.73(b), would obviate the applicability of this particular publication, which was cited under 35 U.S.C. §103(a) on the ground of a non-statutory obviousness-type double patenting.

Accordingly, inasmuch as U.S. Patent No. 6,822,394 B2, which is commonly assigned to the present assignee, is the primary reference of record, and the McPhee, U.S. Patent No. 5,798,579 is only considered to be a secondary publication, the Terminal Disclaimer is considered to be adequate to place the present application into condition for allowance.

In view of the foregoing comments and the submission of the attached duly appropriately considered Terminal Disclaimer, the early issuance of the Notice of Allowance by the Examiner is earnestly solicited. However, in the event that the Examiner has any queries concerning the instantly submitted Amendment, applicants' attorney respectfully requests that he be accorded the courtesy of possibly a telephone conference to discuss any matters in need of attention.

Respectfully submitted,


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Enclosures: Letter Transmitting Terminal Disclaimer (in duplicate);
Terminal Disclaimer; and
A check in the amount of \$130.00 for the Terminal Disclaimer fee.